

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES (MDHHS)
NURSING HOME AND HOSPITAL LONG-TERMCARE
UNIT BEDS STANDARD ADVISORY COMMITTEE (NH-HLTCUSAC)
MEETING**

Thursday, June 11, 2020

Zoom Meeting

APPROVED MINUTES

I. Call to Order

Chairperson Haney called the meeting to order at 9:31 a.m.

A. Members Present:

Donald A. Haney, Chairperson – Thornapple Manor
Frank Wronski, Vice-Chairperson – WellBridge Group
Patricia E. Anderson – Health Care Association of Michigan (HCAM)
Renee Beniak – Michigan County Medical Care Facilities Council
Laura Caldwell – Ascension Michigan
Donna Elston – Spectrum Health Continuing Care
Laurie Murphy Knight, MD – Blue Cross Blue Shield of Michigan
Margaret Lightner – Beaumont Health
Deanna Ludlow Mitchell – LeadingAge Michigan
Jon A. Nowinski, CPA – Lally Group, PC
Salli Pung – Michigan Long Term Care Ombudsman Program - Michigan
Elder Justice Initiative
Holli Titus – Employee Benefit Logistics LLC

B. Members Absent:

None.

C. Michigan Department of Health and Human Services Staff present:

Tulika Bhattacharya
Joette Laseur
Beth Nagel
Tania Rodriguez
Brenda Rogers

II. Review of Agenda

Motion by Ms. Beniak, seconded by Ms. Anderson to accept the agenda as presented. Motion carried.

III. Declaration of Conflicts of Interests

None.

IV. Review of Minutes May 21, 2020

Motion by Ms. Wronski, seconded by Ms. Anderson to accept the minutes as presented. Motion carried.

V. Subcommittee Update

Ms. Anderson provided an update on the subcommittee's review of the bed need methodology (see Attachment A).

Paul Delamater provided an overview of the proposed methodology (see Attachment B).

Discussion followed.

Motion by Ms. Anderson, seconded by Ms. Elston, to accept the proposed methodology and move to the CON Commission. Motion carried.

VI. Next Steps

A. Review of SAC Charge

Chairperson Haney reviewed each of the remaining charges and summarized the recommendations (see Attachment A).

Discussion followed.

For Charge 4, Ms. Nagel stated for the record that the Department still supports minimum occupancy language but understands the SACs rationale for not including it now. The Department would like it to be reviewed again when the standards are up for review.

For Charge 5, the SAC agreed to the following change of the workgroup's recommendation: keep "licensed" and add "and certified in accordance with Medicaid policy...."

B. Review of Draft Language

Motion by Ms. Beniak, seconded by Ms. Anderson to move all recommendations including today's changes to the Commission. Motion carried.

The Department will finalize the draft language.

VII. Public Comment

None.

Ms. Anderson inquired as to the status of the NH-HLTCU language that the Commission took proposed action on in January. Ms. Nagle explained.

VIII. Adjournment

Motion by Ms. Elston, seconded by Ms. Anderson to adjourn the meeting at 10:38 a.m. Motion carried.

Standards Advisory Committee –Nursing Homes and Hospital LTC Units Sub Workgroup

Final Report and Recommendations

Meeting Date: June 2, 2020

Members:

Renee Beniak, Deanna Mitchell, Salli Pung, Laura Caldwell, Donna Elston, Pat Anderson (chair) and alternate Holli Titus.

Advisors to the Workgroup: Dr. Paul Delamater for MDHHS

Ken Sikkema, David Walker, Melissa Samuel, Richie Farran, Dalton Herbel and Abbey Burnell.
CON staff Beth Nagel and Tulika Bhattacharya.

The Workgroup met over the last 6 months often weekly to primarily work on the first charge of updating the bed need methodology. We experienced much interruption (no meetings) from mid-March through mid-May due to the pandemic and state of emergency. On June 2 the workgroup met for the final time to complete the task before us. On behalf of the workgroup members and advisors we would like to present the following recommendations to the SAC.

Charge 1 – The bed need methodology

Recommendation: new methodology

The workgroup spent most of their time discussing, reviewing other state methods and various iterations of proposed methods before coming to a final methodology which we are recommending. A detail presentation of the methodology developed by the workgroup will be presented at the SAC meeting on June 11. The new methodology incorporated these basic elements: local utilization by planning area, measured against H.S.A. (Health Service Areas) regional trends times the population prediction. The proposed methodology maintained the following elements from the current bed need methodology: the four age-groups, existing planning area geographic boundaries, data derived from the CON Annual Survey report, a 5-year prediction by planning area and an average daily census (ADC) factor of 90%.

Charge 2 –Whether adequate access exists for Medicaid patients

Recommendation: adequate access exists for Medicaid residents

The workgroup discussed this charge and agreed that Michigan does have an adequate supply of nursing home and hospital LTC-unit beds to serve the Medicaid population. The workgroup did express concern with services being available for those citizens needing one-on-one monitoring, substance abuse disorders and other severe behavior issues. These concerns relate to services not capacity within the system.

Charge 3 – Specialty population beds

Recommendation: no changes recommended from workgroup

The workgroup reviewed the special population bed groups for adequate supply based on the departments inventory. The four pools of special beds are: spinal cord injury, behavioral patients, ventilator dependent patients and bariatric patients. Each of these categories have beds available no changes were recommended by the workgroup.

In the special population bed groupings there are four historical pools that were allocated beds; Alzheimer's disease, health needs for skilled nursing care services, Religious and hospice. The statewide pool for three of these four pools is set at zero leaving only hospice with a pool of 130 beds of which 62 are in inventory. The workgroup did discuss the ability to reallocate the remaining 68 unused hospice beds to the bariatric pool. CON Nursing Home and HLTCU standards addendum Section 3 (b) states:

"The following historical categories have been allocated 919 beds. Additional beds shall not be allocated to these categories. If the beds within any of these categories are delicensed, the beds shall be eliminated and not be returned to the statewide pool for special population groups."

Beth Nagel explained to the workgroup that these hospice beds cannot be reallocated as they are eliminated. The workgroup decided to not make any recommendations regarding the special population bed pools.

Charge 4 – Language changes presented by the Department regarding adding minimum occupancy requirements to Sections 6 and 8.

Recommendation: not supported by workgroup bring language forward to next standards review period

Section 6 sets requirements for approval to increase beds in a planning area and Section 8 provides the requirements for approval to relocate existing nursing home/HLTCU beds. The department language proposed adding a minimum occupancy requirement to both of these sections set at 60%. Section 8 proposed to require a facility not at 60% occupancy to reduce its bed capacity to achieve a 60% occupancy threshold. The department explained that this language is needed to conform to similar provisions in the hospital and psychiatric bed CON standards and to not allow these actions when occupancy is low at the 60% level.

The workgroup reviewed the proposed language and a proposal to change the percentage to 40% brought forth by a workgroup member. Discussion on the language and concerns brought forth by HCAM not in support of these changes ensued. Leading Age Michigan workgroup representative stated their Board was continuing discussion on this proposed language with a decision to be brought forward at the SAC meeting on June 11. The discussion lead to a decision by all members of the workgroup except Leading Age Michigan to not support this language change. The workgroup stated that due to the pandemic and its impact on occupancy the effects of this change is unknown. The workgroup would recommend that this issue be brought forward to the next review of these standards.

Charge 5 – Language changes presented by the Department regarding technical edits to Section 7. – Recommendation: accept some of the changes

Section 7 deals with requirement for approval to replace beds. The department has proposed changes to Section 7 (1) (f) lines 379-382 and Section 7 (2) (f) lines 423-426 adding language which states:

“The current patients of the facility/beds being replaced shall be admitted to the replacement beds when the replacement beds are ~~licensed~~ **certified in accordance with Medicaid policy** to the extent that those patients desire to transfer to the replacement facility/beds.”

The workgroup supports the addition of this language with a change. The word licensed should be changed to certified and add “in accordance with Medicaid policy “to recognize the payer source (Medicare and Medicaid) for the services. See redline change above.

The department also is proposing language to be added at Section 7 (4) lines 472-487 requiring a minimum occupancy of 60% and if not obtained the need to reduce bed capacity to get to that level. The workgroup discussed this language along with similar language added in Section 6 and 8 with the same conclusion. Replacing an old facility should be embraced and encouraged not hindered in anyway. The workgroup recommended that this language not be included in the standards at this time. The language should be reviewed the next time the standards are up for review. Leading Age of Michigan representative withheld voting at the workgroup pending their further review of the language with a position to be presented at the SAC.

Charge 6 – Consider any technical changes from the Department, e.g., updates or modifications consistent with other CON review standards and the Michigan Public Health Code.

Recommendation: language in Section 9 not accepted and Section 11 not reviewed by workgroup pending action on language as proposed in other sections

The department proposed changes to Section 9 regarding the requirements for approval to acquire an existing nursing home/HLTCU or renew the lease of an existing nursing home/HLTCU. Section 9 part 4 was added at lines 681-711 requiring a minimum occupancy of 60% to sell or renew a lease for the facility, if below that level must relinquish beds to achieve 60% occupancy. The workgroup considered this language in the discussion about Sections 6, 7 and 8 with the same results. We do not support including this language in the standards at this time but defer the language to the next time the standards are reviewed.

The department also proposed changes to Section 11 “Project delivery requirements and terms of approval” at 4 (a) lines 863-869 and a change online 876. The workgroup did not review these changes as we did not recommend changes to the standards that required bed reductions due to low occupancy defined as 60%. If the language in Section 6, 7, 8 and 9 are not added to the standards is this change needed?

Edits to the Review Standards based on the SAC's methodology working group

Paul L. Delamater

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June 10, 2020

Section 3. Determination of needed nursing home bed supply

(2) The number of nursing home beds needed in a planning area shall be determined by the following formula:

(a) For each HSA and for each age cohort established in subsection (1)(b), perform the following calculations:

(i) Determine the patient days and population for the base year and three years prior to the base year.

(ii) Determine the patient day utilization rate per 1000 people for the base year and three years prior to the base year by dividing the patient days by the population and multiplying by 1000.

(iii) Determine the average yearly change in the patient day utilization rate for the three-year period by subtracting the utilization rate in the base year from the utilization rate from three years prior and dividing by three.

(iv) Multiply the average yearly change in the patient day utilization rate by the number of years between the base year and the planning year to calculate total expected change in the patient day utilization rate.

(v) Add the total expected change in the patient day utilization rate to the patient day utilization rate to calculate the patient day utilization rate in the planning year.

(vi) Determine the "high" and "low" patient day utilization rate thresholds by multiplying the patient day utilization rate in the planning year by 1.2 and 0.8.

(b) For each Planning Area, perform the following calculations:

(i) Determine the patient days and population for the base year.

(ii) Determine the patient day utilization rate per 1000 people for the base year dividing the patient days by the population and multiplying by 1000.

(iii) For each age cohort, compare the patient day utilization rate to the patient day utilization rate thresholds of the HSA in which the planning area is located.

(A) If the planning area utilization rate is greater than the HSA high threshold, replace the planning area utilization rate with the HSA high threshold value.

(B) If the planning area utilization rate is less than the HSA high threshold, replace the planning area utilization rate with the HSA low threshold value.

(C) If the planning area utilization rate falls between the HSA low and high thresholds, it is unchanged.

(iv) For each age cohort, multiply the predicted population in the planning year by the planning area utilization rate determined in subsection (2)(b)(iii) to calculate the predicted number of patient days in the planning year.

(v) Sum the predicted number of patient days in the planning year for each age cohort to calculate the total predicted patient days.

(vi) Divide the total predicted patient days by 365 (or 366 for leap years) to obtain the predicted average daily census (ADC).

(vii) Divide the ADC by 0.90 to obtain the number of beds needed for the planning area in the planning year.